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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/997,892 | 11/30/2001 | Robert R. Keller JR. | 72312 | 4224 |

22242 7590 06/28/2005

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EXAMINER

SMITH, TYRONE W

ART UNIT PAPER NUMBER

2837

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,892

Applicant(s)

KELLER, ROBERT R.

Examiner

Tyrone W. Smith

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/18/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on March 18, 2005, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 42 rejected under 35 U.S.C. 103(a) as being unpatentable over Miura (5994858) in view of Noren (5453736).

Regarding Claims 1, 11, 12, 23, 24, 30, 32, 37, 38, and 40. Miura discloses a method and apparatus for detecting obstruction to powered window movement, which includes initiating a learning mode (switching device – Figure 1 item 1), operating a motor (control operation unit and motor drive unit – Figure 1 item(s) 9 and 3), measuring at least one parameter that corresponds to the operation of the motor to provide a parameter value (pulse generator – Figure 1 item 5), using the parameter value to establish a specific force control value to establish obstacle detection or reversing operation or stoppage or other types of operation. Further, assigning specific force control value to a specific location of the set memory unit (refer to Figure 1 item(s) 5, 9 and 10; column 18 lines 37 – 67 and column 19 lines 1 – 4). However, Miura does not disclose using a user manipulability setting range for the force control.

Noren discloses a door operating system with programming control unit, using a user manipulability/program module (Figure 2 item 36) setting range for the force control (column 3 lines 46-63). Further, the user manipulability/program module is used for providing inputs to the controller (Figure 2 item 26), which is used to adjust the length of the pulsed signal provided to the door (Figure 2 item 28).

Regarding Claims 2, 20 – 22, 33. Miura measures at least one parameter that corresponds to the operation of the motor to provide a parameter value, uses the parameter value to establish a specific force control value to establish obstacle detection or reversing operation or stoppage or other types of operation and assigns a specific force control value to a specific location of the set memory unit (column 18 lines 37 – 67 and column 19 lines 1 – 4). Noren discloses a door operating system with programming control unit, using a user manipulability/program module (Figure 2 item 36) setting range for the force control (column 3 lines 46-63).

Regarding Claims 3 – 6, 25 – 29 and 34 – 36. Noren discloses a door operating system with programming control unit, using a user manipulability/program module (Figure 2 item 36) setting range for the force control (column 3 lines 46-63). Further, the user manipulability/program module is used for providing inputs to the controller (Figure 2 item 26), which is used to adjust the length of the pulsed signal provided to the door (Figure 2 item 28).

Regarding Claims 7 – 8 and 31. Miura describes disabling and enabling at least some barrier controller function until the learning mode has been initiated or concluded (Miura (column 7 lines 36 – 42 and column 9 lines 11 – 58).

Regarding Claims 9 – 10 and 39. Miura and Noren describe a user manipulability learning mode switch (Miura – Figure 1 item 1 and Noren – Figure 3).

Regarding Claims 13 – 16 and 18 – 19. Miura measures at least one parameter (speed) that corresponds to the operation of the motor, using a pulse generator, to provide a parameter value (Figure 4; column 7 lines 22 – 35 and column 18 lines 37 – 67).

Regarding Claims 23 and 24. Noren discloses a door operating system with programming control unit, using a user manipulability/program module (Figure 2 item 36) setting range for the force control (column 3 lines 46-63) where, Noren assigns other force control values to other settings of the user manipulable setting range for the force control includes assigning the force control values to thereby establish a linear relationship (having or being a response or output that is directly proportional to the input) between the assigned force control values with respect to the other settings of the user manipulable setting range (Figure 3; column 4 lines 20-67). The present invention used by Noren can also have an assignment other force control values to other settings of the user manipulable setting range for the force control includes assigning the force control values to thereby establish a non-linear relationship (not having or being a response or output that is directly proportional to the input) between the

assigned force control values with respect to the other settings of the user manipulable setting range (Figure 3).

Regarding Claim 17. Noren discloses a visual signal/motion detector (Figure 1 item 22) to indicate initiation of the learning mode/control unit (column 3 lines 29-44).

Regarding Claims 41 – 42. Miura discloses a pulse edge counter (Figure 1 item 12) to determine other force control values and assign the values to specific locations of the memory unit (column 7 lines 48 – 67 and column 8 lines 1 – 14).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine Miura invention of detecting obstruction to powered window movement with Noren discloses a door operating system with programming control unit. The advantage of combining the two would provide a system for accurately detecting obstructions in a movable barrier in operation through the use of a parameter and force control.

Response to Amendment/Arguments

4. Applicant's arguments with respect to claims 1-42 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent prior art related to the current invention is described in the PTO-892.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tyrone W. Smith whose telephone number is 571-272-2075. The examiner can normally be reached on weekdays from 8:30am to 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin, can be reached on 571-272-2800 ext. 37. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tyrone Smith
Patent Examiner

Art Unit 2837


MARLON T. FLETCHER
PRIMARY EXAMINER